

REPORT

OF THE

ATTORNEY GENERAL

TO THE

GOVERNOR.

FOR THE YEARS 1883-4.

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REPORT OF THE ATTORNEY GENERAL.

ATTORNEY GENERAL'S OFFICE,

LINCOLN, NEB., Nov. 30, 1884.

To His Excellency James W. Dawes, Governor of Nebraska :

SIR :—I have the honor in compliance with the requirements of the law to submit for your consideration the following report of the business transacted by this office for the years 1883 and 1884.

A list of the cases in which the State is an interested party that have either been decided since my entrance into office or are now pending in the Supreme Court, will be found in the annexed schedule "A;" and the civil cases under the control of this office, in which the State is a party, pending or disposed of during such period in the District Courts of the State, are included in schedule "B;" and in schedule "C," those pending or disposed of in the Federal Courts. Of the State cases that have reached the Supreme Court during the period covered by this report, nineteen of the same have been decided in favor of the State, in three of which the death penalty was affirmed; ten against the State, leaving eight now pending and undisposed of.

A small appropriation should be made from which the Attorney General might draw when necessary to pay officers' fees in issuing and serving process of civil action instituted by the State. It is frequently found necessary for the State to resort to the courts to enforce the forfeiture of a bond, the recovery of an escheated estate and in many other instances, in which cases the officers issuing and serving the process are entitled to and can demand the fees that would be due them for like services rendered individuals, and if no provision is made for their payment the rights of the State are liable to suffer or be lost.

The difficulty heretofore experienced by this office could thus be obviated and the interest of the State promoted by the creation of a small fund of the nature suggested, placed either under the control of the Governor or Attorney General, which might be resorted to as occasion demanded the services of the officers in such cases.

It is made the primary duty of the Attorney General to appear for the State in all actions in the Supreme Court in which the State is a party or is interested, and also to give advice to the Legislature, or any officer of the Executive Department, when requested so to do.

The rapid increase in our population within the past few years and the consequent increased business for the Courts, criminal as well as civil, has added largely to the work of this office, which if properly attended to will now leave but little time to devote to other duties.

Notwithstanding this, the Attorney General in conjunction with other State Officers is made a member of several State Boards, entrusted with interests the importance of which should receive the almost constant supervision of those responsible for their proper management.

All of the public institutions of the State, both of a charitable and penal nature, of which there are six in number, located in different portions of the State, are under the control and management of the Board of Public Lands and Buildings, composed of the Secretary, Treasurer, Land Commissioner, and Attorney General.

The amount of money appropriated for the maintenance of these institutions and their growing importance, make it incumbent upon the State, without being illiberal, to secure the most commendable economy in their management and in the disbursement of the funds set apart for their support in order to secure in the fullest measure the purposes of their organization, and to do this

requires of those having them in charge constant watchfulness and personal attention, which is practically impossible from the State officers composing this board, burdened as they are with the constantly increasing duties of their respective offices.

It might be economy in the State to so change her fundamental law that these interests could be placed in the hands of those that would give them the constant personal supervision and care that their importance demands.

As the Attorney General is provided with no clerical force, many of the hundreds of letters received during the year from county and municipal officers and private persons calling for official opinions from this office, are necessarily left unattended to.

It is not made by law my duty to give advice in any such cases. I have, however, when the questions seemed to be of an important public nature, responded to them, and in all other cases where time would permit and it could be done without neglecting official duties.

Very respectfully,

ISAAC POWERS, JR.,

Attorney General.

SCHEDULE "A."

CASES PENDING OR DISPOSED OF IN THE SUPREME COURT.

No. 1.

Jerry Ackerman et al
vs.
The State of Nebraska.

} Fine for contempt of court.
From Richardson county.
Reversed.

No. 2.

James Dolan
vs.
The State of Nebraska.

} For selling liquor. From Gage
county. Affirmed.

No. 3.

Frank Denman
vs.
The State of Nebraska.

} Manslaughter. From Lancas-
ter county. Affirmed.

No. 4.

Chas. DeGroat
vs.
The State of Nebraska.

} Arson. From Douglas coun-
ty. Judgment satisfied.

No. 5.

F. L. Lewis
vs.
The State of Nebraska.

} Larceny. From Washington
county. Affirmed.

No. 6.

George Hart
vs.
The State of Nebraska.

} Murder. From Hall county.
Death penalty affirmed.

No. 7.

Frank Stamon
vs.
The State of Nebraska.

} Horse stealing. From Adams
county. Reversed.

No. 8.

Orlando Dutcher et al
vs.
The State of Nebraska.

} Riot. From Holt county. Af-
firmed.

No. 9.

John R. Polin
vs.
The State of Nebraska.

} Murder. From Cass county
Death penalty affirmed.

No. 10.

The State of Nebraska, ex rel.
W. P. Squires,
vs.
John Wallichs, Auditor of Pub-
lic Accounts.

} To compel auditor to audit ac-
count and issue warrant.
Judgment for state.

No. 11.

Wm. C. Drake
vs.
The State of Nebraska.

} Keeping house of ill-fame.
From Lancaster county. Af-
firmed.

No. 12.

The State ex rel. J. H. Foxworthy
vs.
Auditor of Public Accounts.

} To compel auditor to audit and
allow claim. Judgment for
relator.

No. 13.

The State, ex rel. George
Hocknell,
vs.
Auditor Public Accounts.

} To compel the auditor to regis-
ter and certify bonds. Under
advisement.

No. 14.

Quin Bohanan
vs.
The State of Nebraska.

} Murder. From Lancaster Co.
Reversed.

No. 15.

Wm. B. Thorn
vs.
The State of Nebraska.

} Embezzlement. From Adams
county. Pending.

No. 16.

Francis Hair
vs.
The State of Nebraska.

} Horse stealing. From Kear-
ney county. Reversed.

No. 17.

Matthias Simmerman
vs.
The State of Nebraska.

} Murder. From Kearney coun-
ty. Reversed.

No. 18.

Clinton Dill
vs.
The State of Nebraska.

} Murder. From Red Willow
county. Discontinued by
death of plaintiff in error.

No. 19.

Chas. B. Holmes et al
vs.
The State of Nebraska

} Forfeiture of recognizance.
From Johnson Co. Pend-
ing.

No. 20.

Enoch Bradshaw
vs.
The State of Nebraska.

} Murder. From Gage county.
Pending.

No. 21.

W. H. Bryant
vs.
The State of Nebraska.

} Resisting officer. From Gage
county. Reversed.

No. 22.

Jackson Marion	}	Murder. From Gage county. Reversed.
vs. The State of Nebraska.		

No. 23.

S. H. Richmond	}	Rape. From Cass county. Reserved.
vs. The State of Nebraska.		

No. 24.

Stephen Binfield	}	Manslaughter. From Hall county. Affirmed.
vs. The State of Nebraska.		

No. 25.

Dominick Brown	}	Selling liquor. From Lancas- ter county. Affirmed.
vs. The State of Nebraska.		

No. 26.

John O'Dea	}	Obstructing public road. From Washington county. Af- firmed.
vs. The State of Nebraska.		

No. 27.

James E. Boyd	}	Contempt. From Douglas county. Pending.
vs. The State of Nebraska.		

No. 28.

Alonzo George	}	Robbery. From Douglas coun- ty. Reversed.
vs. The State of Nebraska.		

No. 29.

Roger C. Guthrie	}	Bribery. From Douglas coun- ty. Affirmed.
vs. The State of Nebraska.		

No. 30.

Henry C. Seling et al	}	From Adams county. Pending.
vs.		
The State of Nebraska.		

No. 31.

Alexander Patrick	}	Murder. From Seward coun- ty. Affirmed.
vs.		
The State of Nebraska.		

No. 32.

Henry Miller	}	Embezzlement. From York county. Under advisement.
vs.		
The State of Nebraska.		

No. 33.

State, ex rel. Attorney General,	}	Information. Judgment for State.
vs.		
The Northwestern Mutual Live Stock Association.		

No. 34.

Matthias Simmerman	}	Murder. From Kearney coun- ty. Death penalty affirmed.
vs.		
The State of Nebraska.		

No. 35.

Frances Hair	}	Horse stealing. From Kear- ney county. Affirmed.
vs.		
The State of Nebraska.		

No. 36.

Mary A. Brown	}	Manslaughter. From Buffalo county. Pending.
vs.		
The State of Nebraska.		

No. 37.

Philip Meese et al	}	Riot. From Saunders county. Affirmed.
vs.		
The State of Nebraska.		

SCHEDULE "B."

CASES IN THE DISTRICT COURTS OF THE STATE.

No. 1.

The State of Nebraska
vs.
Lyman Frost et al.

} In the District Court of Lancaster county. Foreclosure of mortgage. Judgment for the state. Satisfied.

No. 2.

Page Francis
vs.
The State of Nebraska.

} In Red Willow District Court. Suing on claim against the State. Pending.

No. 3.

The State of Nebraska
vs.
F. W. Liedtke et al.

} York District Court. Judgment against State for costs.

No. 4.

Wm. D. Young
vs.
The State of Nebraska.

} In Lancaster District Court. Case dismissed at cost of the plaintiff.

No. 5.

Diantha Latham
vs.
The State of Nebraska.

} In District Court Lancaster county. Claim sued on, settled by the Legislature making an appropriation to pay the same. Chapter 74, Laws 1883.

SCHEDULE "C."

CASES IN THE FEDERAL COURTS.

No. 1.

Geo. W. Hoagland
vs.
The State of Nebraska.

} In the Supreme Court of the
United States. This case was
settled by the Legislature
making an appropriation.
Chapter 91, Laws 1883, to
pay the taxes in controversy.

No. 2.

The State of Nebraska
vs.
J. M. Young et al.

} In the Circuit Court of the
United States for the District
of Nebraska. Pending.